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25 JUN 2007

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of De MEUTER et al.
Application No.: 10/550,073
PCT No.: PCT/EP04/02983
Int. Filing: 22 March 2004
Priority Date: 21 March 2003
Attorney Docket No.: 19790-002US1
For: DIRECT COMPRESSIBLE TREHALOSE
SOLIDS

DECISION ON
RESPONSE TO
NOTIFICATION OF
DEFECTIVE RESPONSE

This decision is in response to applicant's "Response to Notification of Defective Response" filed on 05 February 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 26 May 2006, a Notification of Missing Requirements was mailed to applicants indicating that, *inter alia*, an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), and the surcharge for filing the oath or declaration after the thirty month period was required.

On 24 July 2006, a Response to the Notification of Missing Requirements was filed in the USPTO accompanied by an executed declaration.

On 05 September 2006, a Notification of Defective Response was mailed indicating that the current declaration had an alteration made to the first inventor's name which was not legible. Applicant was asked to clarify the alteration. Applicant was advised to complete a response within a time limit of one month or the time remaining in the response set forth in the Notification (26 December 2006).

On 26 October 2006, in an attempt to clarify the declaration, counsel, on behalf of applicant, submitted a statement indicating that "the inventor added her middle name, 'Emilienne'". On 4 January 2007, a decision on the submission was mailed, indicating that the USPTO does not accept a declaration that has been altered and requiring a new oath or declaration.

On 5 February 2007, applicant filed the instant response.

DISCUSSION

A review of the declaration reveals that the declaration executed by inventor De Meuter was altered and illegible. Applicant was advised on 05 September 2006 that the alteration made to the first inventor's name was not legible. Thereafter on 04 January 2007, applicant was again advised that the declaration was unacceptable with the alteration.

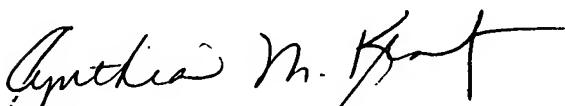
The submission on 5 February 2007 did not address the legibility issue on the declaration and remains outstanding. As previously indicated, the alteration cannot be initialed and dated subsequent to the signing of the declaration. The Office will not consider whether non-initialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. Applicant did not provide a newly executed declaration in compliance with 37 CFR 1.497(a) and (b). Thus, the application is abandoned. The time limit under the 905 has expired and applicant has not provided a proper reply; a new acceptable oath or declaration executed by Pascale Adolphine Emilienne De Meuter, in compliance with 37 CFR 1.497(a) and (b).

CONCLUSION

The application is **ABANDONED**. The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of Notification of Abandonment (Form PCT/DO/EO/909).

A petition to revive the unintentionally abandoned application under 37 CFR 1.137(b) may be filed with the proper reply. The proper reply is a newly executed oath or declaration, executed by Pascale Adolphine Emilienne De Meuter, in compliance with 37 CFR 1.497(a) and (b), to satisfy the requirements of 35 U.S.C. 371 (c)(4) for entrance into the national stage in the United States.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286
Facsimile: (571) 273-0459